

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-700035-D
AND ALL OTHER SEAMAN'S DOCUMENTS

Issued to: John L. VAUGHAN

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1591

John L. VAUGHAN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 30 August 1965, an Examiner of the United States Coast Guard at Long Beach, California, suspended Appellant's seaman's documents for 6 months upon finding him guilty of misconduct. The specifications found proved allege that while serving as an ordinary seaman on board the United States USNS PECOS under authority of the document above described, Appellant.

- (1) on or about 1 May 1963 at Sasebo, Japan, failed to perform duties by reason of intoxication;
- (2) on or about 5 June 1963 at Inchon, Korea, wrongfully failed to perform duties;
- (3) on or about 7 June 1963 at Pusan, Korea, at sea, and at Sasebo, Japan, wrongfully failed to perform duties;
- (4) on or about 7 June 1963 at Pusan, Korea, at sea, and at Sasebo, Japan, wrongfully failed to perform duties;
- (5) on or about 8 June 1963 at Sasebo, Japan, wrongfully failed to perform duties;
- (6) on or about 10 and 11 July 1963 at Inchon, Korea, wrongfully failed to perform duties;
- (7) on or about 16 and 17 July 1963 at Inchon, Korea, wrongfully failed to perform duties
- (8) on or about 21 July 1963 at Sasebo, Japan, wrongfully failed to perform duties;

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- (9) on or about 24 and 25 July 1963 at Inchon, Korea, wrongfully failed to perform duties;
- (10) on or about 5 August 1963 at Sasebo, Japan, wrongfully failed to perform duties;
- (11) on or about 7 and 8 August 1963 at Pusan, Korea, wrongfully failed to perform duties;
- (12) on or about 7 and 8 November 1963 at Sasebo, Japan, wrongfully failed to perform duties; and
- (13) on or about 11 November 1963 at Sasebo, Japan, wrongfully failed to perform duties.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of guilty to the charge and each specification.

The Investigating Officer introduced in evidence voyage records of PECOS.

Appellant offered a statement that drinking had been the cause of his misconduct.

At the end of the hearing, the Examiner rendered an oral decision in which he concluded that the charge and specifications had been proved by plea. The Examiner then reserved judgment on his order. Five days later he entered an order suspending all documents issued to Appellant for a period of 6 months.

The entire decision was not served until 13 May 1966. Appeal was timely filed on 20 May 1966 and perfected on 25 July 1966.

FINDINGS OF FACT

On all pertinent dates, Appellant was serving as an ordinary seaman on board the United States USNS PECOS and acting under authority of his document.

The facts in this case are as alleged in the specifications set out above.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner.

The only grounds for appeal in this case are an assertion by counsel that the Investigating Officer had, prior to hearing, promised Appellant that no outright suspension of his document would

follow if he pleaded guilty to all specifications of misconduct, and that this promise had not been carried out.

APPEARANCE: Amato, Babalas, Breit, Cohen, Rutter and Friedman, of Norfolk, Virginia, by Arthur C. Ermlich, Esq.

OPINION

In this case Appellant pleaded guilty to thirteen specifications of misconduct. The Examiner carefully explained to him the possible results of the hearing before entertaining pleas. After pleas the Investigating Officer made an opening statement in which he declared that he had made an explanation of the same possible results to Appellant.

The appeal in this case is supported by a naked allegation that Appellant had been "promised" that if he pleaded guilty his document would not be suspended. This bare assertion is supported by no evidence and is controverted by the record itself, made in open hearing in the presence of Appellant.

CONCLUSION

There is no reason to disturb the findings or order of the Examiner.

ORDER

The order of the Examiner dated at Long Beach, California, on 30 August 1965, is AFFIRMED.

P. E. TRIMBLE
Vice Admiral, U. S. Coast Guard
Acting Commandant

Signed at Washington, D. C., this 30th day of November 1966.

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Appeals

unsupported allegations not in record insufficient